HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 3049 OF 2006

DATED: 20.2.2006

Between:

Smt. N. Andalamma and others

… Petitioners

and

The Government of Andhra Pradesh,

Represented by Principal Secretary,

Revenue Department, Secretariat,

Hyderabad and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.3049 OF 2006

ORAL ORDER:

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The Writ Petition is premature.

The petitioners grievance is that the 2nd respondent-Sub Registrar, Golconda, Red Hills, Hyderabad, is proceeding to take steps to register the sale deed, pursuant to an agreement of sale dated 15.2.1996 executed by the petitioners in favour of the 3rd respondent. According to the petitioners, the 3rd respondent had paid only a part of the sale consideration and reneged upon the payment of the balance. Petitioners state that by letter dated 31.8.2000, they addressed the 2nd respondent bringing this fact to his notice and calling upon the 2nd respondent not to execute the sale deeds or deliver the sale deeds to the 3rd respondent, in respect of an extent of Ac.2.4 guntas in Sy.Nos.102/1 and 102/2, Nampally, Hyderabad.

Pursuant to the agreement of sale dated 15.2.1996, certain sale deeds are alleged to have been presented by the 3rd respondent before the 2nd respondent for registration, bearing Nos.P/257/96, P/349/96, P/341/96, P/350/96 and P/342/96 dated 4.4.96, 26.4.96, 27.4.96, 26.4.96 and 27.4.96 respectively.

It is the case of the petitioners that they were not present before the registering authority when the above 'pending registration' sale deeds were presented for registration to the 2nd respondent. Thereafter, they submitted the representation dated 31.8.2000 calling upon the 2nd respondent not to register the sale deeds and release them in favour of the 3rd respondent. Petitioners contend that under Sections 34 and 35 of the Registration Act, 1908 (for short 'the Act') and the Rules under Chapter XII of the A.P. Rules under the Registration Act (for short 'the Rules'), the vendees are required to be present before the registering authority and that in the absence of the vendees/ the executors of the sale deeds, no registration can be made. The petitioners also assert that they learn and believe the same to be true; that the 2nd respondent is proceeding to register the sale deeds

contrary to the provisions of the Acts and the Rules above, on the basis of a direction issued by this court dated 31.1.2006 in W.P.No.28221 of 2005. The said writ petition was filed by the 3rd respondent aggrieved by the 2nd respondent not registering and releasing the sale deeds. The writ petition was disposed of at the stage of admission. The petitioners are not parties to the said writ petition. This court merely directed that the respondents therein including the 2nd respondent herein should consider the representations of the 3rd respondent herein dated 30.11.2005 and 27.12.2005 and pass appropriate orders for release of the documents, after due registration.

The apprehension of the petitioners that the 2nd respondent would register the sale deeds without following the provisions of Sections 34 and 35 of the Act and the provisions of Chapter XII of the A.P. Rules under the Act, appears currently to be without basis. The judgment of this court dated 31.1.2006 merely directed the respondents therein including the 2nd respondent herein to pass appropriate orders for release of the documents after due registration. The expression 'due registration' means registration in accordance with law and not *de hors* it. There is no basis for the petitioners' apprehension or presumption that the 2nd respondent would violate the mandatory provisions of the Act and the applicable Rules and open himself to both official and personal liability for civil and other action.

The Writ Petition is premature. If the 2nd respondent registers the documents presented by the 3rd respondent and executed by the petitioners, contrary to the provisions of the Act or the applicable Rules, the petitioners are at liberty to seek appropriate remedies, including by way of a writ petition if the allegation is that the registration was done in violation or transgression of the provisions of an Act or the Statutory provisions.

The writ petition is dismissed as premature. No costs.

GODA RAGHURAM, J

Date: 20.2.2006

cvm